IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Second Appeal No. 590 of 07
Gajanan and anr v. Baliram and ors

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. Court's or Judge's Orders.

Ms Manisha Sahare, Adv for appellants

Coram: B.P. Dharmadhikari, J
Dated : 4th December 2007

1/ Heard Ms Manisha Sahare, learned counsel for appellants. She contends that the respondent no.1-original plaintiff has miserably failed to prove that present appellants have encroached upon any Government land or road and obstructed access to his property. She contends that the evidence on record demonstrates otherwise.

2/ With the assistance of learned counsel for appellants, I have seen the appeal memo as also judgments delivered by the courts below. It is apparent that the house of plaintiff was bounded by road on two sides i.e. South and East and in the year 1990 the present appellants encroached upon the eastern

side road and constructed a tin shed adjoining the eastern wall of plaintiff''s house. They also started a grocery shop therein. The defence of present appellants was that of total denial.

3/ The Courts below found that the sale deed and evidence of defendant's witness Dnyaneshwar proved existence of 10 feet wide road to the eastern side of plaintiff's house. The road was shown in the sale deed executed in the year 1978 and the Courts have found that this sale deed itself meant that there was no construction of present appellants-defendants on the eastern side at that time. The sale deed has also been used to draw inference that contention of present appellants that their structure has been standing since last thirty years is therefore incorrect. The suit has been filed in the year 2001. Thus, it is apparent that after appreciating evidence on record, the Courts below have concurrently held against the appellants. No substantial question of law as such arises in this appeal. The second appeal is dismissed. No order as to costs.

Judge.

hsj